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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/27/2020**MEMORANDUM ENDORSED**

August 27, 2020

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Via CM/ECFHon. Gregory H. Woods
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007Re: *King v. Schelling, et al.*, Case No. 1:20-cv-4779-GHW; Request for Extension

Dear Judge Woods:

We represent defendants Chris Schelling, Harry Palmin, Jason Amello, Steve Aselage, Hubert Birner, John M. Dunn, Michelle Griffin, and Luc Marengere ("Individual Defendants") and Nominal Defendant Acer Therapeutics Inc. ("Acer" and with Individual Defendants, "Defendants") in the above-referenced shareholder derivative action ("Derivative Action") and write to request an approximately 60-day extension of time for Defendants to respond to the complaint in the Derivative Action ("Derivative Complaint") from September 1 to November 2, 2020. The Parties also request that the Court adjourn the Initial Conference currently scheduled for September 17 to a date after November 2, 2020. Plaintiff consents to these requests.

This Derivative Action is related to a putative securities class action *Skiadas v. Acer Therapeutics Inc., et al.*, Case No. 1:19-cv-06137-GHW ("Securities Action") pending before this Court. This is the parties' second request for an extension of time to respond to the Derivative Complaint. On July 14, 2020, before this case was assigned, the parties filed a stipulation seeking an extension of time to respond to the Derivative Complaint until after the Court in the Securities Action decided defendants' motion to reconsider the Court's motion to dismiss decision (ECF No. 8). On July 17, this Court extended Defendants' deadline to respond to the Derivative Complaint to September 1 (ECF No. 10).

On August 16, 2020, Your Honor entered a Case Management Plan and Scheduling Order in the Securities Action (ECF No. 66), as amended on August 17 (ECF No. 67). The schedule in the Securities Action contemplates completion of mediation by October 15, 2020. Acer is a small company with limited resources that is defending against claims in the Securities Action and Derivative Action. Accordingly, the parties in the Derivative Action respectfully

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request an extension of time to respond to the Derivative Complaint to preserve the parties' and the Court's resources, to avoid potentially unnecessary motion practice, and to allow the parties to attempt to reach a resolution of the actions.

Respectfully submitted,

/s/ Jamie Levitt


Jamie Levitt

cc: Timothy Brown, counsel for Plaintiff
Jordan Eth, counsel for Defendants

Application granted. The deadline for Defendants to respond to the complaint is extended to November 2, 2020. The initial pretrial conference scheduled for September 17, 2020 is adjourned to November 12, 2020 at 12 p.m. The parties are directed to consult the Court's Emergency Rules in Light of COVID-19, which are available on the Court's website, for dial-in information and other instructions.

SO ORDERED.

Dated: August 27, 2020
New York, New York



GREGORY H. WOODS
United States District Judge